THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16944 OF 2005

23.02.2006

Between:

Sri Shyamsunder Gupta, S/o.Late Sriram Gupta

… Petitioner

AND

The Registrar of Companies, Andhra Pradesh,

Sultan Bazar, Koti, Hyderabad

And another

… Respondents

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ORDER:

The petitioner is the Ex-Managing Director of the second respondent company, which is in liquidation. It appears that the first respondent herein has shown the name of the second respondent company under the list of vanishing companies. The petitioner claims that he and other Directors are very much available in the city of Hyderabad and are participating in the winding up proceedings and therefore, the second respondent company cannot be listed as vanishing company. He, therefore, seeks a writ of Mandamus declaring the action of the first respondent company in enlisting the second respondent as a vanishing company.

Detailed counter affidavits are filed by respondent No.1 and respondent No.3 justifying the listing of second respondent company as vanishing company. In brief, it is their case that pursuant to the judgment of Allahabad High Court in **Midas Touch Investors Association v Union of India** (W.P.No.658 (MB) of 1998 dated 26.3.1999), the matter was placed before Central Coordination Monitoring Committee (CCMC) under the co-chairmanship of the Secretary to Government of India in Ministry of Company Affairs and the Chairman of Securities and Exchange Board of India (SEBI), when it was decided to identify certain companies as vanishing companies. According to them, it was also decided to file criminal

complaints against those vanishing companies through the Registrar of Companies. It is the specific case of the first respondent that pursuant to the decision of CCMC, the first respondent placed the name of the second respondent company in website as vanishing company.

Heard the learned Counsel for the petitioner and learned Counsel for Central Government.

Admittedly, the second respondent company is in liquidation and is being represented by the Official Liquidator (O.L.), High Court of Andhra Pradesh, before the Company Court. It is axiomatic that when once a company is ordered to be wound up and a liquidator is appointed, the Directors including the Managing Director of the company cease to be such Directors except insofar as the discharge of statutory obligations in relation to the company in winding up. If any harm is caused to the reputation of the company in liquidation, it s only the O.L., who can be said to have any grievance. In such an event, it is for the O.L. to obtain the permission of the company court and proceed against those who are impinging the reputation of the company. Therefore, liberty is given to the petitioner to file appropriate application before the company court seeking a direction to O.L. to take appropriate steps against the first respondent for deleting the name of the second respondent company from the list of vanishing company. In this writ petition, the relief as prayed for, cannot be granted.

The writ petition, with the above observations, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

February 23, 2006

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